

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

STEVE BARTOSEK,

Petitioner,

v.

COMMONWEALTH OF
PENNSYLVANIA,

Respondent.

Civil Action No. 04-113 Erie

MEMORANDUM ORDER

This mandamus action was received by the Clerk of Court on April 14, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 8], filed on September 13, 2005, recommended that Petitioner's Petition [Doc. No. 3] be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondent. No objections were filed. After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 30th day of September, 2005;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Mandamus [Doc. No. 3] is DENIED.

The Report and Recommendation [Doc. No. 8] of Magistrate Judge Baxter, filed on September 13, 2005, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge